

HALTING AIRPLANE NOISE TO GIVE US PEACE ACT OF
2008

SEPTEMBER 28, 2008.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5788]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 5788) to amend title 49, United States
Code, to establish prohibitions against voice communications using
a mobile communications device on commercial airline flights, and
for other purposes, having considered the same, report favorably
thereon with an amendment and recommend that the bill as
amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Halting Airplane Noise to Give Us Peace Act of
2008”.

**SEC. 2. PROHIBITIONS AGAINST VOICE COMMUNICATIONS USING MOBILE COMMUNICATIONS
DEVICES ON SCHEDULED FLIGHTS.**

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is
amended by adding at the end the following:

**“§ 41724. Prohibitions against voice communications using mobile commu-
nications devices on scheduled flights**

“(a) INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—

“(1) IN GENERAL.—An individual may not engage in voice communications
using a mobile communications device in an aircraft during a flight in sched-
uled passenger interstate air transportation or scheduled passenger intrastate
air transportation.

“(2) EXCEPTIONS.—The prohibition described in paragraph (1) shall not apply
to—

“(A) a member of the flight crew or flight attendants on an aircraft; or

- “(B) a Federal law enforcement officer acting in an official capacity.
- “(b) FOREIGN AIR TRANSPORTATION.—
- “(1) IN GENERAL.—The Secretary of Transportation shall require all air carriers and foreign air carriers to adopt the prohibition described in subsection (a) with respect to the operation of an aircraft in scheduled passenger foreign air transportation.
- “(2) ALTERNATE PROHIBITION.—If a foreign government objects to the application of paragraph (1) on the basis that paragraph (1) provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of paragraph (1) to a foreign air carrier licensed by that foreign government until such time as an alternative prohibition on voice communications using a mobile communications device during flight is negotiated by the Secretary with such foreign government through bilateral negotiations.
- “(c) DEFINITIONS.—In this section, the following definitions apply:
- “(1) FLIGHT.—The term ‘flight’ means the period beginning when an aircraft takes off and ending when an aircraft lands.
- “(2) VOICE COMMUNICATIONS USING A MOBILE COMMUNICATIONS DEVICE.—
- “(A) INCLUSIONS.—The term ‘voice communications using a mobile communications device’ includes voice communications using—
- “(i) a commercial mobile radio service or other wireless communications device;
- “(ii) a broadband wireless device or other wireless device that transmits data packets using the Internet Protocol or comparable technical standard; or
- “(iii) a device having voice override capability.
- “(B) EXCLUSION.—Such term does not include voice communications using a phone installed on an aircraft.
- “(d) SAFETY REGULATIONS.—This section shall not be construed to affect the authority of the Secretary to impose limitations on voice communications using a mobile communications device for safety reasons.
- “(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.”
- (b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:
- “41724. Prohibitions against voice communications using mobile communications devices on scheduled flights.”.

PURPOSE OF THE LEGISLATION

H.R. 5788, as amended, the “Halting Airplane Noise to Give Us Peace Act of 2008”, prohibits voice communications using mobile communications devices in an aircraft during a flight of scheduled passenger inter- or intra-state air transportation. This prohibition includes conventional commercial mobile communications devices, voice over the Internet applications, and voice override capabilities. The flight crew is not covered by this restriction and it does not affect the use of telephones already installed in the aircraft. The Secretary of Transportation shall require all air carriers and foreign air carriers to adopt the cell phone prohibition, however, if a foreign government objects to the application of the provision, then the Secretary may waive the application at such time as an alternative prohibition on voice communications can be negotiated by the Secretary with the foreign government.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Aviation Administration (“FAA”) regulations currently prohibit the use of cellular phones, wireless communications devices and other portable electronic devices (“PEDs”) with radio transmitters (e.g., BlackBerry handhelds) while onboard U.S.-registered civil aircraft because of concerns related to interference with aircraft communications and navigation equipment, or avionics. However, portable voice recorders, hearing aids, heart pacemakers, and electronic shavers are permitted. FAA regulations also

allow passengers to use PEDs without radio transmitters (e.g., laptops) at altitudes above 10,000 feet, on a case-by-case basis, if an airline demonstrates that there would be no interference with navigation or communications equipment during critical flight phases.

The Federal Communications Commission (“FCC”) rules prohibit the use of cellular phones using the 800 MHz frequency and other wireless devices on airborne aircraft. This ban was put in place because of potential interference to wireless networks on the ground. In March 2007, the FCC terminated a proceeding that it began in late 2004 to consider potentially lifting this ban. However, the FCC has approved rules that allow in-flight voice and data services, including broadband services using dedicated air-to-ground frequencies that were previously used for seat-back telephone service. Air-to-ground service providers are in the process of rolling out new in-flight services, such as high-speed Internet access for laptop computers. Such services, if offered by an airline, would also have to meet FAA safety requirements.

European airlines are in a different situation. In 2008, the European Commission introduced new European-wide regulations to harmonize the technical and licensing requirements for the use of cell phones onboard aircraft throughout Europe. As a result of this decision, some European airlines are planning to allow passengers to use cell phones during flight.

SUMMARY OF THE LEGISLATION

Section 1. Short title

Section 1 denotes the short title of the bill as the “Halting Airplane Noise to Give Us Peace Act of 2008”.

Section 2. Prohibitions against voice communications using mobile communications devices on scheduled flights

Section 2, subsection (a) adds section 41724 of Title 49, United States Code, to prohibit voice communication with exceptions for flight crew and Federal law enforcement officers; allows the Secretary of Transportation to make exemptions for foreign air carriers; and defines the terms flight and voice communication using a mobile communications device. Subsection (b) adds a clerical amendment.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

On April 15, 2008, Representative Peter A. DeFazio introduced H.R. 5788. This bill has not been introduced in a previous Congress.

On July 31, 2008, the Committee on Transportation and Infrastructure met in open session to consider H.R. 5788. The Committee adopted an amendment in the nature of a substitute to H.R. 5788 making technical clarifying changes to the bill. The amendment was adopted by voice vote and the Committee ordered the bill reported favorably to the House by voice vote with a quorum present.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 5788 or ordering the bill reported. A motion to order H.R. 5788 reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and clause 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to prohibit voice communications using mobile communications devices in an aircraft during a flight of scheduled passenger inter- or intra-state air transportation.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 5788 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 15, 2008.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5788, the Halting Airplane Noise to Give Us Peace Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs) and Jacob Kuipers (for the impact on the private sector).

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 5788—Halting Airplane Noise to Give Us Peace Act of 2008

H.R. 5788 would prohibit airline passengers from using certain communication devices during flights. CBO estimates that enacting this bill would not affect federal spending or revenues. H.R. 5788 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 5788 would impose private-sector mandates, as defined in UMRA, on airline passengers and air carriers. The bill would prohibit passengers from talking on cell phones or using services known as voice over Internet protocol (VOIP) during a domestic commercial flight. The bill also would require air carriers to adopt this prohibition during international flights. Rules by the Federal Aviation Administration and the Federal Communications Commission currently prohibit the use of cell phones during a flight but do not prohibit air passengers from using VOIP services. According to industry representatives, few air carriers offer Internet services during flights, and none of those air carriers allow the use of VOIP services. Therefore, CBO estimates that the cost of the mandates would fall well below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

The CBO staff contacts for this estimate are Megan Carroll (for federal costs) and Jacob Kuipers (for the impact on the private sector). This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5788 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or tribal law. The Committee states that H.R. 5788 does not preempt any State, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART II—ECONOMIC REGULATION

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CHAPTER 417—OPERATIONS OF CARRIERS**SUBCHAPTER I—REQUIREMENTS**

Sec.

41701. Classification of air carriers.

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41724. *Prohibitions against voice communications using mobile communications devices on scheduled flights.*

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SUBCHAPTER I—REQUIREMENTS

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§41724. Prohibitions against voice communications using mobile communications devices on scheduled flights**(a) INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—**

(1) *IN GENERAL.*—An individual may not engage in voice communications using a mobile communications device in an aircraft during a flight in scheduled passenger interstate air transportation or scheduled passenger intrastate air transportation.

(2) *EXCEPTIONS.*—The prohibition described in paragraph (1) shall not apply to—

(A) a member of the flight crew or flight attendants on an aircraft; or

(B) a Federal law enforcement officer acting in an official capacity.

(b) FOREIGN AIR TRANSPORTATION.—

(1) *IN GENERAL.*—The Secretary of Transportation shall require all air carriers and foreign air carriers to adopt the prohibition described in subsection (a) with respect to the operation of an aircraft in scheduled passenger foreign air transportation.

(2) *ALTERNATE PROHIBITION.*—If a foreign government objects to the application of paragraph (1) on the basis that paragraph (1) provides for an extraterritorial application of the laws of the United States, the Secretary may waive the application of paragraph (1) to a foreign air carrier licensed by that foreign government until such time as an alternative prohibition on voice communications using a mobile communications device during flight is negotiated by the Secretary with such foreign government through bilateral negotiations.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) *FLIGHT.*—The term “flight” means the period beginning when an aircraft takes off and ending when an aircraft lands.

(2) *VOICE COMMUNICATIONS USING A MOBILE COMMUNICATIONS DEVICE.*—

(A) *INCLUSIONS.*—The term “voice communications using a mobile communications device” includes voice communications using—

(i) a commercial mobile radio service or other wireless communications device;

(ii) a broadband wireless device or other wireless device that transmits data packets using the Internet Protocol or comparable technical standard; or

(iii) a device having voice override capability.

(B) *EXCLUSION.*—Such term does not include voice communications using a phone installed on an aircraft.

(d) SAFETY REGULATIONS.—This section shall not be construed to affect the authority of the Secretary to impose limitations on voice communications using a mobile communications device for safety reasons.

(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

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